

**Agreement between the Commonwealth of Massachusetts Recognized State
Coordinator for Personal Property Transfer pursuant to 10 U.S.C. 2576a and
_____ as a Recognized Law Enforcement Agency**
(Law Enforcement Agency)

MEMORANDUM OF AGREEMENT

PURPOSE:

The purpose of this document is to set forth the terms and conditions which will be binding on the parties with respect to excess Department of Defense (DOD) personal property which is transferred pursuant to 10 U.S.C. §2576a and to promote the efficient and expeditious transfer of the property.

AUTHORITY:

The Secretary of Defense is authorized by 10 U.S.C. §2576a to transfer to Federal and State Agencies, personal property that is excess to the needs of the DOD and that the Secretary determines is suitable to be used by such agencies in law enforcement activities, with emphasis on counterdrug/counterterrorism activities, under such terms prescribed by the Secretary. The authorities granted to the Secretary of Defense have been delegated to the Defense Logistics Agency (DLA).

STAFFING AND FACILITIES:

Colonel Marian J. McGovern has been appointed by the Governor of Massachusetts as the State Coordinator of the 1033 Program. Colonel McGovern has designated Captain Thomas Donoghue and Mr. Joseph Kelly as Points of Contact (POC). One POC will be available during normal business hours to respond to all 1033 program inquiries. All LEA's shall provide secure storage facilities for equipment obtained through the program.

TERMS AND CONDITIONS:

- **Law Enforcement Agency (LEA) Eligibility Criteria:** Must be a "law enforcement agency" whose primary function is enforcement of applicable Federal, State and local laws as defined by the DLA regulation (this is referring to DLA Directive (DLAD) 4160.10 which will be superseded by the One Book) and whose compensated officers have powers of arrest and apprehension. Compensated officers may include full and part time officers who work a minimum of eight hours per month.
- **How to Enroll in the State 1033 Program:** LEA's must request enrollment via their State Coordinator. LEA's must provide a completed application for participation to their State Coordinator. If the enrollment request is approved by the State Coordinator, it will be forwarded to the LESO. If approved by LESO, the State Coordinator will be contacted and

provided with a LEA screener's authorization memo (Authorization Letter for Property Screening and Receiving). Once enrolled, the LEA must sign this memorandum of agreement (MOA) with the State Coordinator agreeing to the terms and conditions of the 1033 Program. As soon as an agency is properly enrolled, materials may be screened manually at a Defense Reutilization and Marketing Office (DRMO); however, the State Coordinator must provide the LEA with their LEA identification (ID) number so they may screen and request materials using automation. All requests for property will be based on bona fide law enforcement activities.

- **LEA Screener Criteria:** Must be full-time and/or part-time, sworn and/or non-sworn officers assigned to the LEA performing this duty. LEAs are allowed a maximum of four (4) screeners per agency. A maximum of two (2) of the authorized screeners may physically screen at any DRMO at one time.
- **Identification/Acquisition/Transportation of Property:** LEAs find needed property electronically through the Defense Reutilization and Marketing Service (DRMS) website: www.drms.dla.mil or by physically visiting the nearest DRMO. Once property has been identified, LEAs submit a manual or electronic DRMS Form 103 to the State Coordinator. All requests for items from the program must be authorized by the chief executive officer of the political subdivision that applies to the program. Requests from cities and towns shall be signed by the mayor, city or town manager, or board of selectmen. Requests from college and university police departments shall be signed by the college or university president. A copy of this request will be sent to the Executive Office of Public Safety and Security (EOPSS) for review. In the event that EOPSS does not object to the request the State Coordinator shall thereafter approve/disapprove the request. If approved by the State Coordinator the request shall be sent to the LESO. If approved by the LESO the request is forwarded to Military Standard Requisitioning and Issue Procedures (MILSTRIP) or a manual DD Form 1348 is sent to the State Coordinator. It is the responsibility of the State/LEA to transport requested property from the DRMO's. DLA will not fund the transportation cost.
- **Storage of Property:** Unless the State is authorized as a distribution center, it will be the gaining LEA's responsibility to store property received through the 1033 Program. Distribution centers should only hold property for their specific customers and for not more than 90 days. After 90 days, disposition should be requested, in writing, from the LESO, via their State Coordinator.
- **Distribution of Property:** LESO will approve property requests in the following priority: counterdrug/counterterrorism and then any other law enforcement activities. The State Coordinator will approve property in a fair and equitable manner. The size of the LEA, type of property requested, and the justification for the request will be considered in the approval process.
- **Security of Property:** It is the responsibility of the gaining LEA to safeguard all property received through the 1033 Program. Should any property become lost due to theft, destruction

or unauthorized sale/disposal, this information must be forwarded to the State Coordinator within seven (7) working days after the incident, if the property has a Demilitarization code of C,D,E,F, or G it must be reported within 24 hrs. The State Coordinator will contact the LESO for additional guidance.

- **Accountability of Property:** Each LEA and the State must maintain records for all property acquired through the 1033 Program. These records must provide an “audit trail” for individual items of property from receipt to distribution. These documents include but are not limited to the following: DRMS Form 103 with all justifications or printouts of automated requests, DD Form 1348 (receipt and turn-in), all disposal and transfer paperwork, approved Bureau of Alcohol, Tobacco and Firearms (ATF) Form 10s, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC-Form 8050-1), and any pertinent paperwork through the LESO. The records maintained must also satisfy any and all pertinent requirements under its applicable State statutes and regulations for the program and this property.
- **Establish Inactive File:** As of October 1, 2003, the LESO will institute a five (5) year file retention policy. This policy will state that LESO will maintain active files for two (2) years and inactive files for three (3) years. After five years, the files are destroyed with the exception of DEMIL code B through Q.
- **Utilization of Property:** Property received through the 1033 Program must be placed into use within one (1) year of receipt and utilized for a minimum of one (1) year, unless the condition renders it unusable. If property is not placed in use within one (1) year of receipt, it must be transferred to another authorized agency, or returned to a DRMO. Property returns/turn-ins must be coordinated through the State Coordinator and LESO. All costs associated with the turn-in, transfer, or disposal of property will be the responsibility of the LEA.
- **Transfer of Property:** LEAs must coordinate, in writing, transfer of 1033 property through their State Coordinator. The State Coordinator will request final approval from the LESO. Property may be transferred within the State or between States as long as it is properly coordinated with the State Coordinator and LESO. If approved a “LESO transfer approval memo” will be sent to the State Coordinator. For more information regarding these items, view the following links:

WebFLIS

<https://www.webflis.dlis.dla.mil/WEBFLIS>

DEMIL Code definition

http://www.dlis.dla.mil/demil/demil_codes.asp

- **Disposal of Property:** LEAs must request approval, in writing, from their State Coordinator before any 1033 property is disposed. The State Coordinator will request final approval from the LESO. If approved a “LESO disposal approval memo” will be sent to the State Coordinator. Only DEMIL codes A, and DEMIL Code Q with an Integrity Code of 6 may be approved for

disposal. Items with DEMIL codes of C, B,D, E, F, G and all DEMIL Code Q with Integrity code of 3 must be transferred to an authorized agency or must be returned to a DRMO when no longer needed. Costs incurred for transfers, disposals or turn-ins will be borne by the State/LEA.

- **DEMIL code A:** Does not require demilitarization and the LEA may dispose of the property after one year of possession.
- **DEMIL code Q with Integrity code of 6:** *Will be treated like a Demil Code of A.* Does not require demilitarization and the LEA may dispose of the property after one year of possession.
- **DEMIL codes C, B, D, E, F, G and all DEMIL Code Q with Integrity code of 3 are** require demilitarization and must be returned to a DRMO or transferred to another authorized LEA. The State Coordinator must obtain the LESO approval for equipment returns and transfers. All costs associated with the return or transfer of property will be the sole responsibility of the LEA.
 - LESO will provide turn-in documentation (DD Form 1348-1A). With few exceptions, the State/LEA will be asked to coordinate the turn-in with a local DRMO. The State/LEA informs LESO which DRMO has agreed to accept the turn-in. LESO will then provide turn-in documentation to the accepting DRMO. Upon receipt of the turn-in documentation, the LEA must return the property to the specified DRMO. The DRMO personnel receiving the materials will sign the turn-in document and give the LEA a copy of the signed receipt paperwork. This receipt paperwork must be maintained in the LEA's files and a copy of the receipt must be forwarded to the State Coordinator for their files. (see DOD 4160.21-M, Defense Material Disposition Manual; DOD 4160.21-M-1, Defense Demilitarization Manual; DRMS-I 4160.14, Volume VII for DEMIL rules).
- **Training:** The State Coordinator, his/her staff and LEAs should be trained/familiar with guidance on the following websites:

DLA Operations
www.dla.mil (DLA handbook)

LESO Operations
<https://pubweb.drms.dla.mil/leeds/> (1033 Program/Automation training guides, Under LINKS tab)

DRMS Operations
www.drms.dla.mil (Automation requisitioning process/procedures)

By Signing this MOA or accepting excess DOD personal property under this MOA, the LEA agrees to comply with applicable provisions of the following national policies prohibiting discrimination:

A. On the basis of race , color, or national origin, in the title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) as implemented by DOD regulations 32 CR Part 195.

B. On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq) as implemented by Department of Health and Human Services regulations in 45 CFR Part 90.

C. On the basis of handicap, in Section 504 of the rehabilitation Act of 1973, P.L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, P.L. 93-516 (29 U.S.C. 794), as implemented by the Department of Justice regulations in 28 CFR Part 41 and DOD regulations at 32 CFR Part 56.

THE STATE WILL:

- a. Receive applications for participation in this program from its law enforcement activities and validate with signature, their law enforcement mission prior to forwarding to LESO for approval as an authorized LEA. Once the approval process is completed and the agency is loaded in the DRMS automated requisitioning system, provide enrolled LEA's with their LEA ID number so they may request materials on-line.
- b. Ensure all requests for items are approved by the chief executive officer of the political subdivision that applies to the program.
- c. Forward all requests to EOPSS for review prior to approval.
- d. Forward requests to LESO for excess property that is necessary to meet requirements for LEA efforts. Assure the recipient LEA is identified on all requisitions.
- e. Be responsible for the transfer and/or allocation of property to qualified LEA's.
- f. Assure the LEA's agree to maintain, at no expense to the U.S. Government, adequate liability and property damage insurance coverage and workmen's compensation insurance to cover any claims. Self Insurance is acceptable.
- g. Control and maintain accurate records on all property obtained under this plan. These records must provide an "audit trail" for individual items of property from receipt to distribution. These documents include but are not limited to the following: DRMS Form 103 with all justifications or printouts of automated requests, DD Form 1348 (receipt and turn-in), all disposal and transfer paperwork, approved ATF Form 10s, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC-Form 8050-1) and any pertinent paperwork through the LESO. The records maintained must also satisfy any and all pertinent requirements under its applicable State statutes and regulations for the program and this property.

- h. Enter into agreements with LEAs to assure they fully comply with the terms, conditions and limitations applicable to property transferred pursuant to this plan/program.
- i. Allow a maximum of four (4) screeners, full-time and/or part-time, sworn and/or non-sworn officers, per LEA performing this duty. The screeners must be named in a “letter of authorization/Application for Participation” (data sheet) provided to the LESO, to be updated as changes occur, or whenever LESO requests an update. A weapons point of contact (POC) fulltime officer must be included on the “letter of authorization/ Application for Participation” for any LEA’s that have received or are requesting weapons. NOTE: A maximum of two (2) of the authorized screeners may physically screen at any DRMO at one time.
- j. Assure that all environmentally regulated property is handled, stored and disposed of in accordance with applicable Federal, State and local environmental laws and regulations.
- k. Assure that all LEA’s requests for weapons are in compliance with the Department of Defense %20 rule for acquisition. LEA’s may receive %20 ratios of M16 and M14 rifles based on the number of compensated officers. LEA’s may receive %100 ratio of .45 Cal. pistols based on the number of compensated officers. Compensated officers may include full time and part time officers who work not less than 8 hours per month.
- l. In the absence of compelling circumstances, applications for weaponry not commonly used by municipal state or law enforcement agencies will be denied and not forwarded to the Defense Reutilization & Marketing Service Law Enforcement Support Office.
- m. Assure all weapons are registered with the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. See the Definitions section of the ATFE Form 10 for instructions, <http://www.atf.gov/forms/pdfs/f532010.pdf> The State and each LEA must comply with all applicable firearm laws and regulations. Report all stolen or unaccounted for weapons to DLA, LESO not later than twenty four (24) hours after it is discovered stolen or unaccounted for. The State Coordinator must provide a weapon POC on all LEA Applications for Participation. LEA’s may transfer weapons provided through the 1033 program to an authorized LEA within their state, to an authorized LEA in another participating state, or they must turn-in their weapons to the U.S. Army Tank-Automotive and Armaments Command (TACOM) when no longer require for law enforcement use. The LEA must request the transfer or turn-in of weapons through their State Coordinator, who in turn must request approval from the LESO. Weapons will not physically move until the approval process is complete. All costs associated with the transfer or turn-in will be the sole responsibility of the LEA.
- n. Identify to LESO requests that will be used in counterdrug/counterterrorism activities.
- o. Ensure LEAs are aware of their responsibilities in accordance with the Single Audit Act of 1984, as amended (31 U.S.C. 7501-7). Assist LEAs by providing information, as required,

for audit submission. Assist LEAs by identifying which property oversight agency the audit information must be submitted to.

- p. Review and update State Memorandum of Agreement (MOA) annually (calendar year) or when the Governor-appointed State Coordinator changes or Governor Changes. If there are no changes to the State MOA send a signed letter/email to the LESO indicating that the MOA has been reviewed and no changes were necessary.
- q. Ensure all LEAs enrolled in the State 1033 Program maintain a current copy of the MOA.
- r. Conduct periodic reviews of each LEA enrolled in the program, to include physical inventory/spot checks, of property received and any related records. Additionally, ensure LEA's are in compliance with the MOA. These reviews must be documented and maintained by the State Coordinator for future LESO compliance reviews.
- s. Obtain reconciliation reports from the LESO website and conduct monthly reconciliations on all items received and annual reconciliations for High Dollar items (items valued over \$20,000) and/or High Awareness (Demilitarization required, MLI,CCLI,FSCAP) property between the State/LEA and LESO.
- t. Ensure serial/tail numbers are provided to LESO on items such as Peacekeepers/Armored Personnel Carriers (APCs), Aircraft, Watercraft and Weapons.
- u. Validate and certify LEA inventory reconciliation results electronically and forward them to LESO within 10 working days of the monthly or annual reconciliation process. Maintain a signed copy of all property reconciliation documentation received through the 1033 Program.
- v. Submit requests for property returns (turn-ins to a DRMO) to LESO. Note: Costs of shipping or repossession of the property by the U.S. Government will be borne by the LEA.
- w. Submit disposal, transfer and inventory adjustment requests to LESO.
- x. Contact the LESO in writing not later than 30 calendar days prior, to a State Coordinator change.
- y. All property transfers will cease if no current Governor's letter is on file; the State has not signed the MOA with DLA; the State Coordinator or POC does not validate all property requests and there is no State MOA on file.

THE LAW ENFORCEMENT AGENCY WILL:

- a. Submit Applications for Participation in this program to the State Coordinator for approval.

- b. Submit requests for property (electronically). Provide justification for all requisitions to the State Coordinator.
- c. Submit written approval from the chief executive officer of the political subdivision when submitting a request.
- d. Agrees to maintain, at no expense to the U.S. Government, adequate liability and property damage insurance coverage and workmen's compensation insurance to cover any claims. Self Insurance is acceptable.
- e. Maintain all Records in accordance with the DLA Record Management and Procedures and Records. Control and maintain accurate records on all property obtained under this plan. These records must provide an "audit trail" for individual items of property from receipt to distribution. These documents include but are not limited to the following: DRMS Form 103 with all justifications or printouts of automated requests, DD Form 1348 (receipt and turn-in), all disposal and transfer paperwork, approved ATF Form 10s, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC-Form 8050-1) and any pertinent paperwork through the LESO. The records maintained must also satisfy any and all pertinent requirements under its applicable State statutes and regulations for the program and this property. All excess DOD personal property with a Demilitarization Code of A and Q6 will have their files maintained in an active file status for two years, then placed in an inactive status for three additional years, then may be destroyed. All excess DOD personal property with a Demilitarization Code B through Q3 will have their files maintained through the life cycle of the property. If an item is approved for turn-in, transfer, or disposal, then the file will move to an inactive status and will be maintained for an additional three years, then may be destroyed.
- f. Comply with the terms, conditions and limitations applicable to property transferred pursuant to this plan/program.
- g. Allow a maximum of four (4) screeners, full-time and/or part-time, sworn and/or non-sworn officers, per LEA performing this duty. The screeners must be named in a "letter of authorization/ Application for Participation" (data sheet) provided to the LESO, to be updated as changes occur, or whenever LESO requests an update. A weapons POC fulltime officer must be included on the "letter of authorization/ Application for Participation" (data sheet) for any LEA's that have received or are requesting weapons. NOTE: A maximum of two (2) of the authorized screeners may physically screen at any DRMO at one time. Appoint a Property Accountable Officer responsible for approving/disapproving all property requests and maintaining all accountable records for property received.
- h. Assure that all environmentally regulated property handled, stored and disposed of in accordance with applicable Federal, State and local environmental laws and regulations.
- i. Assure that all weapons are registered with the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. See the Definitions section of the BATFE

Form 10 for instructions, <http://www.atf.gov/forms/pdfs/f532010.pdf>. Recipients must comply with all applicable firearm laws and regulations. Report all stolen or unaccounted for weapons to LESO through the State Coordinator not later than twenty four (24) hours after the weapon has been discovered stolen or unaccounted for. The LEA must provide a weapon POC on all data sheets. All weapon transfers and turn-ins must be preapproved by the LESO through the State Coordinator.

- j. Identify to LESO each request that will be used in counterdrug/counterterrorism activities.
- k. LEAs enrolled in the State 1033 Program must maintain a copy of the MOA.
- l. LEA's must be aware of their responsibilities under the Single Audit Act of 1984, as amended (31 U.S.C. 7501-7).
- m. Conduct periodic reviews to include physical inventory/spot checks of actual property and related records. In the event of a domestic disaster each LEA will conduct a physical inventory of all DOD personal property. A report of this inventory will be sent to the State Coordinator no later than seven days after such an event. Ensure compliance with applicable MOA. Extensions may be granted upon the request of the LEA to the State Coordinator.
- n. Obtain reconciliation reports from the State Coordinator and conduct monthly and annual reconciliations. Validate the accountability of all High Profile (weapons, night vision, aircraft/watercraft, apc vehicles), High Value (acquisition cost of \$20,000 or more) and High Awareness (demilitarization required) property annually with the State Coordinator. Provide reconciliation results to the State Coordinator.
- o. Ensure serial/tail numbers are provided to the State Coordinator on items such as Peacekeepers/ Armored Personnel Carriers (APCs), Aircraft, Watercraft and Weapons.
- p. Conduct inventory reconciliations and provide inventory reconciliation results electronically to the State Coordinator within 10 working days of the monthly or annual reconciliation process. Maintain a signed copy of all property reconciliation documentation received through the 1033 Program.
- q. Submit requests for property returns (turn-ins to a DRMO) to the State Coordinator. Note: Costs of shipping or repossession of the property by the U.S. Government will be borne by the LEA.
- r. Submit disposal, transfer and inventory adjustment requests to the State Coordinator.
- s. Contact the State Coordinator, in writing, not later than 30 days prior, when property accountable officer changes.

IN WITNESS THEREOF, the parties hereto have executed this agreement as of the last date written below.

State Coordinator Signature

LEA Chief Executive Signature

Type/Print Name and Title

Type/Print Name and Title

Date _____

Date _____